



Summit Care LLC, Skilled Healthcare LLC, Genesis Healthcare LLC, and Genesis Healthcare Inc.'s Original Answer, Notice Pursuant to Rule 193.7 and Jury Demand filed March 24, 2016 in State Court.

Exhibit B: List of All Counsel of Record;

Exhibit C: Notice of Filing of Notice of Removal to be filed in State Court; and

5. Certificate of Interested Persons.



**I.**  
**RULE 47 STATEMENT**

1. Pursuant to Texas Rule of Civil Procedure 47, Plaintiff seeks monetary relief over \$1,000,000.

**II.**  
**DISCOVERY CONTROL PLAN**

2. Pursuant to Rule 190.1 of the Texas Rules of Civil Procedure, Plaintiff requests that discovery be conducted under a Level 3 discovery control plan.

**III.**  
**PARTIES**

3. Plaintiff Terrie Hill is a resident of Lubbock County, Texas. Plaintiff brings this action individually and as a representative of the estate of Virginia Hill for improper treatment of Virginia Hill by Defendants pursuant to TEX. CIV. PRAC. & REM. CODE § 71.021, TEX. CIV. PRAC. & REM. CODE § 71.002-71.004 and the Texas Probate Code and on behalf of all wrongful death beneficiaries of the Estate of Virginia Hill. Plaintiff further states that no administration of Ms. Hill's estate is open and none is necessary.

4. Defendant Texas Heritage Oaks Nursing and Rehabilitation Center, LLC d/b/a Heritage Oaks Nursing and Rehabilitation Center is being sued pursuant to TEX. R. CIV. P. 28 which provides that any partnership, unincorporated association, private corporation, or individual doing business under an assumed name may sue and be sued in its partnership, assumed, or common name. Hereinafter, this Defendant is designated as Heritage Oaks for purposes of this pleading. Heritage Oaks is a foreign limited liability company, registered in Texas, and may be served by serving its registered agent at Corporation Service Company d/b/a CSC- Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> St., Ste. 620, Austin, TX 78701, or wherever the registered agent may be found.

5. Defendant Summit Care LLC is a foreign limited liability company which is currently engaged in, and at all times material to this lawsuit, was engaged in business in Texas. Hereinafter, this Defendant is designated as Summit Care for purposes of this pleading. This Defendant may be served through its registered agent for service of process at Corporation Service Company d/b/a CSC- Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> St., Ste. 620, Austin, TX 78701, or wherever the registered agent may be found.

6. Defendant Skilled Healthcare LLC is a foreign limited liability company which is currently engaged in, and at all times material to this lawsuit, was engaged in business in Texas. Hereinafter, this Defendant is designated as Skilled Healthcare for purposes of this pleading. This Defendant may be served through its registered agent for service of process at Corporation Service Company d/b/a CSC- Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> St., Ste. 620, Austin, TX 78701, or wherever the registered agent may be found.

7. Defendant Genesis Healthcare LLC is a foreign limited liability company which is currently engaged in, and at all times material to this lawsuit, was engaged in business in Texas. Hereinafter, this Defendant is designated as Genesis LLC for purposes of this pleading. This Defendant may be served through its registered agent for service of process at Corporation Service Company d/b/a CSC- Lawyers Incorporating Service Company, 211 E. 7<sup>th</sup> St., Ste. 620, Austin, TX 78701, or wherever the registered agent may be found.

8. Defendant Genesis Healthcare Inc. is a foreign corporation which is currently engaged in, and at all times material to this lawsuit was engaged in, business in Texas. Hereinafter, this Defendant is designated as Genesis Inc. for purposes of this pleading. The Secretary of State is the agent for service on Genesis Inc.; Genesis Inc. engaged in business in Texas; Genesis Inc. does not maintain a regular place of business in Texas, does not have a designated agent for service of process, and the lawsuit arises from Genesis Inc.'s business in

Texas. Accordingly, the Secretary of State is the registered agent for service of process as provided by TEX. CIV. PRAC. & REM. CODE ANN. § 17.044. Citation and petition may be issued in the name of the Secretary of State, who shall then forward it by certified mail, return receipt requested, or registered mail to Defendant Genesis Healthcare, Inc. by serving its chief executive officer, George V. Hager, at 4500 Dorr Street, Toledo, Ohio 43615-4040.

**IV.**  
**JURISDICTION AND VENUE**

9. This Court has jurisdiction over this matter because the suit arises under the laws of the State of Texas and because the Plaintiff suffered damages within the jurisdictional limits of this Court.

10. Venue is proper in this Court because Lubbock County is the county in which the events complained of occurred.

**V.**  
**NOTICE**

11. Plaintiff will show that in accordance with TEX. CIV. PRAC. & REM. CODE CH. 74.051, Defendants were placed on notice of this claim prior to the filing of this lawsuit.

**VI.**  
**DEFINITIONS**

12. Wherever in this petition the word “Defendants” is used, such term refers jointly and collectively to the conduct of defendants TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC, GENESIS HEALTHCARE LLC, AND GENESIS HEALTHCARE INC.

13. Wherever in this petition TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC,

GENESIS HEALTHCARE LLC, AND GENESIS HEALTHCARE INC. are referred to as doing any act or thing or failing to do any act or thing, such reference includes the corporate entity, as well as the officers, agents, servants, representatives, and/or employees of said Defendants. These Defendants are hereinafter collectively referred to as “Corporate Defendants.”

14. Whenever in this petition it is alleged that TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION CENTER did any act or thing or failed to do any act or thing, it is meant that the officers, agents, or employees of that facility operated at 5301 University Ave., Lubbock, TX 79413, respectively, participated in, performed or failed to perform such acts or things while in the course and scope of their employment or agency relationship with said nursing facility.

## **VII.**

### **FACTUAL BACKGROUND**

15. Virginia Hill (“Ms. Hill”), a 67 year old woman, was admitted to Heritage Oaks on July 11, 2007, after Ms. Hill had a fall at another facility that resulted in a fractured hip. When Ms. Hill was admitted to Heritage Oaks, she was appropriately documented as a high fall risk, and a care plan was implemented to ensure adequate fall precautions such as a bed alarm, chair alarm, wanderguard, siderails, lowered bed, fall mat, and extensive assistance with activities of daily living (“ADLs”) were put in place. However, these precautions were only implemented for a very limited time and were discontinued entirely.

16. Heritage Oaks held itself out to the public, including Plaintiff, as a nursing home facility which was competent and qualified to provide nursing home services with all the necessary care and precaution expected of a nursing home facility. More specifically, Heritage Oaks represented to Ms. Hill and her family that Heritage Oaks had the qualifications and training to properly manage Ms. Hill’s care, as required by applicable law. Ms. Hill and her

family relied upon these representations when they agreed to move Ms. Hill into Heritage Oaks, and they would not have moved Ms. Hill into Heritage Oaks, nor kept her there, but for those representations. As a nursing home resident, Ms. Hill was entitled to and had the right to receive the basic and minimum care prescribed by law.

17. During the course of her admission at Heritage Oaks, Ms. Hill was diagnosed with dementia/cognitive loss, lack of coordination, difficulty in walking, unsteady gait, muscle weakness, osteoporosis (decreased bone mass which raises a red flag for patients that are also a high fall risk), and was noted to have a personal history of falling. In fact, Ms. Hill had a fall on September 20, 2012 that resulted in a “goose egg” to her forehead and another fall on May 27, 2014 that resulted in a fractured wrist. However, despite her history of falls, Heritage Oaks failed to implement adequate fall precautions and increase its assistance with Ms. Hill’s ADLs even in the face of Heritage Oak’s assessments which plainly documented a downward change in her condition. The standard of care applicable to fall risk patients such as Ms. Hill require facilities such as Heritage Oaks to provide appropriate and necessary interventions for fall risk patients such as Ms. Hill.

18. Heritage Oak’s failure to have adequate fall precautions in place predictably turned tragic on December 2, 2014. Although there was mysteriously no investigation of the fall in Heritage Oak’s records, University Medical Center (“UMC”) noted that Ms. Hill was walking to the restroom in the evening, felt that she was going to fall, and twisted herself to fall into the wall sliding down the wall to the floor. Ms. Hill was transferred to UMC where she was found to have a left acetabular fracture, left pubic rami fracture, and lumbar compression fracture; fractures consistent with a significant traumatic fall. Ms. Hill died several days later. Ms. Hill’s death certificate and autopsy listed her cause of death as: “Clinical Documented Medical Complications of Hip Fractures due to Blunt Trauma due to Clinically Documented Fall.”



Heritage Oaks' negligence in failing to adequately protect Ms. Hill was a direct and proximate result of her injuries and death.

19. Ms. Hill was dependent upon Heritage Oaks for treatment and 24-hour nursing care which included, at a minimum, the following essential services:

- a. Ordinary and standard care to prevent accidents and injuries;
- b. Timely notifying Ms. Hill's attending physician and family of any significant changes in condition, need to alter treatment, or threat to her health;
- c. Creating an individualized care plan of the daily nursing care required by Ms. Hill based on her specific condition and needs, which was updated and revised when she experienced a significant change in condition or if care planned measures were ineffective;
- d. Administering all treatments and medications in accordance with physician's orders, as well as all nursing care in accordance with Ms. Hill's individualized care plan;
- e. Monitoring and supervising Ms. Hill to prevent falls;
- f. Implementing adequate assistive devices and interventions to prevent falls; and
- g. Recognizing a serious change in Ms. Hill's condition and discharging her when it became apparent that she needed emergent medical attention.

By reason of Ms. Hill's needs and her degree of dependency upon the nursing home staff, Defendants fully understood the consequences of failing to provide such routine services in accordance with fundamental standards of care.

20. These needs were well known to Defendants who were engaged in a continuing course of negligent care and treatment of Ms. Hill. Defendants failed to provide an adequate number of qualified staff to appropriately care for Ms. Hill. By failing to adequately and appropriately monitor and supervise Ms. Hill, a known fall risk, Defendants negligently permitted Ms. Hill to fall and/or sustain significant trauma while at Heritage Oaks which resulted in multiple fractures, a great deal of pain and suffering, and death.

21. The above catastrophic injuries of Ms. Hill were caused by Defendants' profound neglect and reckless, willful, wanton and oppressive disregard for Ms. Hill's safety.

**VIII.**  
**NEGLIGENCE**

22. The preceding paragraphs are incorporated herein for all purposes.

23. This is a civil liability case in which it has become necessary for Plaintiff to bring a lawsuit by reason of the negligence of Defendants which caused the injuries to Ms. Hill. Such negligence caused great physical and mental injuries and considerable consequential damages. The injuries of Ms. Hill made the basis of this lawsuit was a direct and proximate result of Defendants' negligence, as set forth above.

24. At all times material to this lawsuit, statutory and regulatory duties imposed by the State of Texas and designed to protect a class of persons, to wit: the nursing home residents of this State, were in full force and effect. As a member of such class, Ms. Hill was entitled to protection of these laws, namely the Health & Safety Code and the rules and regulations promulgated thereunder as set forth in the Texas Administrative Code. The scope and purpose of the Health & Safety Code is specifically set forth in Texas Health and Safety Code §242.001(a), which provides:

This chapter and the rules and standards adopted under this chapter, establish minimum acceptable levels of care. A violation of a minimum acceptable level of care established under this chapter is forbidden by law. Each institution licensed under this chapter shall, at a minimum, provide quality care in accordance with this chapter and the rules and standards.

25. These laws and regulations are not pled as the basis for a separate cause of action or negligence *per se* but as evidence of the Defendants' duties, the standard of care, negligence and gross negligence.

26. Defendants, by and through their employees and agents, violated these fundamental laws, engaging in a pattern and practice of neglect and conduct prohibited by law. More specifically, Defendants engaged in negligent conduct which included:

(a) Continuing failure to provide sufficient numbers of staff to supervise Ms.

Hill and meet her basic care needs;

- (b) Repeated failure to hire and train appropriate personnel to monitor, supervise, and/or treat Ms. Hill;
- (c) Continuing retention and assignment of unfit, unqualified and incompetent direct care staff;
- (d) Ongoing failure to obtain and provide timely and appropriate medical treatment and nursing intervention to Ms. Hill;
- (e) Failure to protect Ms. Hill from mistreatment and neglect;
- (f) Failure to provide Ms. Hill with care and services to meet and maintain the highest quality of life possible;
- (g) Failure to give Ms. Hill professional services that meet a professional standard of care;
- (h) Failure to exercise reasonable care in protecting its residents such as Ms. Hill from injuries;
- (i) Failure to create, implement, and monitor an appropriate care plan that took into consideration Ms. Hill's known physical condition and needs;
- (j) Failure to provide timely and adequate care and assistance to Ms. Hill;
- (k) Failure to properly observe, assess, evaluate, monitor, and treat Ms. Hill with regard to Ms. Hill's fall risk;
- (l) Failure to create, use and follow policies and procedures that forbid mistreatment, neglect and abuse of residents;
- (m) Failure to properly prescribe and administer pain medication to Ms. Hill;
- (n) Failure to establish and implement appropriate corporate safety, training, staffing, and fundamental nursing care policies to prevent harm to residents and avoid the known consequences of inadequate care.

27. Defendants knew or should have known from their experience as licensed nursing home operators and Ms. Hill's medical history that these acts or omissions posed a serious threat to the safety and welfare of Ms. Hill.

28. Defendants' conduct was not occasional or fortuitous, but rather was the natural and predictable result of the decisions made by Defendants to maximize revenues and profits while at the same time reducing costs. Defendants' policies and financial decisions caused: (a)

repeated dangerous staffing levels at the facility; (b) patient population needs that exceeded the capacity of the limited number of care givers on duty; and (c) continued and ongoing neglect of Ms. Hill and other similarly situated residents.

29. Each and all of the aforementioned acts, both omission and commission, as well as those yet to be discovered, constitute negligence and were a direct and proximate cause of damages as set forth below.

**IX.**  
**VIOLATION OF RESIDENT RIGHTS**

30. The preceding paragraphs are incorporated herein for all purposes.

31. Defendants violated basic resident rights guaranteed under the law, to-wit: TEX. HEALTH & SAFETY CODE § 242.501; TEX. HUM. RES. CODE § 102/003; and TEX. ADMIN. CODE §§ 19.401 and 19.701. Such violations constitute negligence and were a proximate cause of Ms. Hill's suffering and injuries. In causing injury to Ms. Hill, Defendants flagrantly violated the following resident rights:

- (a) The right to be free from abuse, neglect and exploitation;
- (b) The right to be safe;
- (c) The right to reside and receive services in the facility with reasonable accommodation of individual needs;
- (d) The right to a dignified existence; and
- (e) The right to all care necessary to have the highest possible level of health.

**X.**  
**JOINT AND SEVERAL RESPONSIBILITY**

32. The preceding paragraphs are incorporated herein for all purposes.

33. The negligence of Defendants, operating separately and concurrently, was a proximate cause of the injuries sustained by Ms. Hill and the damages more specifically set forth

below. Accordingly, Defendants are jointly and severally responsible for the injuries sustained by Ms. Hill.

**XI.**  
**GROSS NEGLIGENCE**

34. The preceding paragraphs are incorporated herein for all purposes.

35. Defendants were reckless and grossly negligent. Defendants' conduct involved an extreme degree of risk, considering the probability and magnitude of the potential harm to Ms. Hill. Such gross negligence caused great physical and mental injuries and considerable consequential damages. The injuries to Ms. Hill made the basis of this lawsuit were a direct and proximate result of Defendants' gross negligence, as set forth above.

36. By reason of such conduct, Plaintiff seeks exemplary damages from Defendants.

**XII.**  
**DAMAGES**

37. The preceding paragraphs are incorporated herein for all purposes.

38. Plaintiff seeks damages including conscious physical pain, suffering, torment, destruction of dignity, mental anguish, physical impairment, loss of enjoyment of life, and reasonable medical expenses caused to Ms. Hill by reason of Defendants' wrongful conduct detailed hereinabove.

39. Plaintiff further seeks to recover pre-judgment interest and post-judgment interest for all damages and reserves the right to amend and state further the amount of her damages.

**XIII.**  
**PUNITIVE DAMAGES**

40. The preceding paragraphs are incorporated herein for all purposes.

41. Plaintiff seeks punitive damages in an amount commensurate with: a) the nature of the wrongs committed by Defendants; b) the inhuman character of Defendants' course of conduct; c) the degree of culpability of the wrongdoers herein; d) the helpless and dependent

nature of the victim in this case; and e) the degree to which the conduct described hereinabove offends the public sense of justice. Defendants' conduct alleged hereinabove justifies an award of exemplary damages in an amount sufficient to deter Defendants from engaging in this conduct in the future.

**XIV.**  
**REQUEST FOR DISCLOSURE**

42. Pursuant to TEX. R. CIV. P. 194 of the Texas Rules of Civil Procedure, Defendants are requested to disclose, within 50 days of service of this request, the information or material described in TEX. R. CIV. P. 194.2 (a) through (l).

**XV.**  
**EXPERT REPORTS**

43. Pursuant to §§74.001 et seq. of the Texas Civil Practice and Remedies Code, including §74.351, Plaintiff will serve upon the Defendants Plaintiff's expert report together with a curriculum vitae for Plaintiff's expert not later than 120 days after Defendants' Original Answer is filed.

**XVI.**  
**JURY DEMAND**

44. Plaintiff hereby demands a trial by jury on all issues set forth herein and tender the appropriate fee.

**XVII.**  
**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff, TERRIE HILL, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF VIRIGNIA HILL, AND ON BEHALF OF ALL WRONGFUL DEATH BENEFICIARIES OF THE ESTATE OF VIRGINIA HILL, prays that citations be issued and served upon Defendants TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE

OAKS NURSING AND REHABILITATION CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC, GENESIS HEALTHCARE LLC, AND GENESIS HEALTHCARE INC., commanding them to appear and answer herein, and that upon final hearing of this cause, Plaintiff have judgment against Defendants in an amount to be determined by the Court and Jury, for all damages, plus pre-judgment interest and post-judgment interest, costs of Court, and for such other and further relief, at law or in equity, both general and special, to which Plaintiff may show herself to be justly entitled. Plaintiff also prays for actual, exemplary, and punitive damages in an amount that exceeds the minimum jurisdictional limits of the Court.

Respectfully submitted,

**HICKS THOMAS LLP**

By: /s/ Stephen M. Loftin  
Stephen M. Loftin  
State Bar No. 12489510  
sloftin@hicks-thomas.com  
Allison F. Fisher  
State Bar No. 24068614  
afisher@hicks-thomas.com  
700 Louisiana, Suite 2000  
Houston, Texas 77002  
Tel: 713.547.9100  
Fax: 713.547.9150

**ATTORNEYS FOR PLAINTIFF**

Docket Sheet: 2016519411

Page: 1

Date Printed: 04/05/2016

## Case Summary

Case number: 2016519411

File Date: 02/12/2016

Style: HILL, TERRIE (INDIVIDUALLY); ESTATE OF  
vs. TEXAS HERITAGE OAKS NURSING A;

Disposition Date: / /

Case Type: INJ/DAMAGE: MED MALPRACT

Court: D099

Events:	Code	Description	Evnt Date	Actn Date	Comments
1	PETN	PETITION FILED	02/12/2016	02/12/2016	PLAINTIFF'S ORIGINAL PETITION
2	DCP3	DISCOVERY LEVEL 3	02/12/2016	02/12/2016	
3	DSRQ	DISCOVERY REQUEST / MOTION	02/12/2016	02/12/2016	REQUEST FOR DISCLOSURES
4	INSH	CASE INFORMATION SHEET	02/15/2016	02/15/2016	
5	CHCK	CHECK CASE	04/12/2016	04/12/2016	
6	RQST	REQUEST	02/15/2016	02/15/2016	CIVIL PROCESS REQUEST
7	CISS	CITATION ISSUED	02/16/2016	02/16/2016	E-9130459
8	CISS	CITATION ISSUED	02/16/2016	02/16/2016	E-9130459
9	CISS	CITATION ISSUED	02/16/2016	02/16/2016	E-9130459
10	CISS	CITATION ISSUED	02/16/2016	02/16/2016	E-9130459
11	CISS	CITATION ISSUED	02/16/2016	02/16/2016	E-9130459
12	CSRV	CITATION SERVED	03/15/2016	03/07/2016	SERVED BY D'ANN WATHEN
13	CSRV	CITATION SERVED	03/15/2016	03/07/2016	SERVED BY D'ANN WATHEN
14	CSRV	CITATION SERVED	03/15/2016	03/07/2016	SERVED BY D'ANN WATHEN
15	CSRV	CITATION SERVED	03/15/2016	03/07/2016	SERVED BY D'ANN WATHEN
16	ANSR	ANSWER RECEIVED	03/24/2016	03/24/2016	
17	JYRQ	JURY REQUEST	03/24/2016	03/24/2016	SEE #16 PREPAID





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## Notice of Service of Process

TMM / ALL  
Transmittal Number: 14890087  
Date Processed: 03/09/2016

**Primary Contact:** Lisa C. Holahan  
Genesis HealthCare LLC  
101 E. State Street  
Kennett Square, PA 19348

**Copy of transmittal only provided to:** Jarrolyn Quinones

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**Entity:** Skilled Healthcare, LLC  
Entity ID Number 3418650

**Entity Served:** Skilled Healthcare LLC

**Title of Action:** Terrie Hill, Individually and as Representative of the Estate of Virginia Hill, and on behalf of All Wrongful Death beneficiaries of the Estate of Virginia Hill vs. Texas Heritage Oaks Nursing and Rehabilitation Center, LLC

**Document(s) Type:** Citation/Petition

**Nature of Action:** Wrongful Death

**Court/Agency:** Lubbock County District Court, Texas

**Case/Reference No:** 2016-519411

**Jurisdiction Served:** Texas

**Date Served on CSC:** 03/07/2016

**Answer or Appearance Due:** 10:00 am Monday next following the expiration of 20 days after service

**Originally Served On:** CSC

**How Served:** Personal Service

**Sender Information:** Stephen M. Loftin  
713-547-9100

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## Notice of Service of Process

TMM / ALL  
Transmittal Number: 14881994  
Date Processed: 03/08/2016

**Primary Contact:** Lisa C. Holahan  
Genesis HealthCare LLC  
101 E. State Street  
Kennett Square, PA 19348

**Copy of transmittal only provided to:** Jarrolyn Quinones

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<b>Entity:</b>	Texas Heritage Oaks Nursing And Rehabilitation Center, LLC Entity ID Number 3418685
<b>Entity Served:</b>	Texas Heritage Oaks Nursing and Rehabilitation Center, LLC d/b/a Heritage Oaks Nursing and Rehabilitation Center
<b>Title of Action:</b>	Terrie Hill, Individually and as Representative of the Estate of Virginia Hill, and on behalf of All Wrongful Death beneficiaries of the Estate of Virginia Hill vs. Texas Heritage Oaks Nursing and Rehabilitation Center, LLC
<b>Document(s) Type:</b>	Citation/Petition
<b>Nature of Action:</b>	Worker's Compensation
<b>Court/Agency:</b>	Lubbock County District Court, Texas
<b>Case/Reference No:</b>	2016-519411
<b>Jurisdiction Served:</b>	Texas
<b>Date Served on CSC:</b>	03/07/2016
<b>Answer or Appearance Due:</b>	10:00 am Monday next following the expiration of 20 days after service
<b>Originally Served On:</b>	CSC
<b>How Served:</b>	Personal Service
<b>Sender Information:</b>	Stephen M. Loftin 713-547-9100

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CAUSE NO. 2016-519,411

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**DEFENDANTS TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC, GENESIS HEALTHCARE LLC, AND GENESIS HEALTHCARE INC.'S ORIGINAL ANSWER; NOTICE PURSUANT TO RULE 193.7 and JURY DEMAND**

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Page 1 of 7

**I.**  
**DEFENDANTS' ORIGINAL ANSWER**

Subject to such stipulations and admissions as may hereinafter be made, Defendants assert a general denial as authorized by TEX. R. CIV. P. 92, and respectfully request that Plaintiffs be required to prove the charges and allegations made against them by a preponderance of the evidence or such greater quantum of evidence as required by the Constitution and Laws of the State of Texas.

**II.**  
**AFFIRMATIVE DEFENSES**

Defendants expressly invoke the protections, defenses and limitations authorized by Chapters 74 and 41 of the Texas Civil Practice & Remedies Code including, but not limited to, the standards, burden of proof, and limits on damages established therein. Pleading further, Defendants expressly invoke the defenses authorized by Chapter 74, Subchapter G of the Texas Civil Practice & Remedies Code.

**III.**  
**PROXIMATE CAUSE**

Defendants state that no act or omission on the part of these Defendants was the proximate cause of any injuries to decedent and/or damages to Plaintiffs. Defendants contend that the sole cause or causes of the injuries to decedent and/or damages of Plaintiffs, if any, are wholly unrelated to any act or omission on the part of these Defendants.

**IV.**  
**NEW AND INDEPENDENT CAUSES**

Defendants contend that any and all injuries sustained by decedent, and/or damages sustained by Plaintiffs, were solely and proximately caused by a new and independent cause and/or a superseding intervening cause separate and apart from anything these Defendants allegedly did or failed to do. Further, Defendants would show that the incident or incidents made

the basis of this suit were the result of events and/or conditions wholly beyond the scope and control of these Defendants and for which these Defendants were not responsible.

**V.**  
**UNAVOIDABILITY**

Defendants would show that the incident or incidents made the basis of this suit were unavoidable and, therefore, not proximately caused by any acts, omissions, and/or negligence on the part of these Defendants. The conduct of these Defendants, if any, was not a substantial cause of decedent's injuries and/or Plaintiffs' alleged damages. The decedent's injuries and/or Plaintiffs' damages, if any, were not the result of any acts or omissions of these Defendants.

**VI.**  
**ANATOMICAL ANOMALIES AND PRE-EXISTING CONDITIONS**

Defendants would show the Court and jury that the decedent's injuries and/or Plaintiffs' damages, if any, resulted from, were produced and/or were caused, in whole or in part, by anatomical anomalies, pre-existing conditions, injuries and/or illnesses over which these Defendants had no control.

**VII.**  
**CONTRIBUTORY NEGLIGENCE**

Defendants would show that any, some, or all of the damages sustained by the decedent were the result, in whole or in part, of the decedent failing to act as reasonable, ordinary, prudent persons would have and should have acted under the same or similar circumstances.

**VIII.**  
**PROPORTIONATE RESPONSIBILITY**

Defendants plead proportionate responsibility and would show that in the unlikely event the jury finds in favor of Plaintiffs and awards damages, Defendants specifically reserve any and all rights they have for contribution and/or indemnity against third-persons, both parties and non-

parties, and reserve the rights and remedies provided by Chapters 32 and 33 of the Texas Civil Practice & Remedies Code.

**IX.**  
**ELECTION OF CREDIT**

Defendants invoke the legal doctrine, which permits these Defendants to elect between submission of issues against other entities which have paid monies to Plaintiffs in settlement of liability for this cause of action and the taking of a credit for such monies as have been paid for the extinguishment of such liability. This pleading is directed at any such settlement by Plaintiffs with entities who are presently parties to this action, entities that are not parties to this action and will not be made so, and entities who are not parties to this action, but who will or may be added later as defendants.

**X.**  
**RECOVERY OF MEDICAL EXPENSES**

Defendants contend that Plaintiffs' right to recovery of medical or health care expenses is limited to the amount actually paid or incurred by or on behalf of Plaintiffs. TEX. CIV. PRAC. & REM. CODE § 41.0105.

**XI.**  
**TEXAS RULES OF CIVIL PROCEDURE**

Defendants plead credit, offset, payment, release and accord and satisfaction as provided in Rule 94 of the Texas Rules of Civil Procedure.

**XII.**  
**PROVISIONS OF TEXAS CIVIL PRACTICE & REMEDIES CODE**

Defendants are entitled to the benefits of any percentage reduction, or direct credit, to be elected at the time of trial pursuant to the provisions of the Texas Practice & Remedies Code.

**XIII.**  
**PERIODIC PAYMENTS**

Defendants continue to deny any and all liability to Plaintiffs. However, in the unlikely event that the Court or Jury should find the negligence of these Defendants proximately caused injury to decedent and/or damages to Plaintiffs, Defendants provide notice that it will invoke Texas Civil Practice and Remedies Code §§ 74.501–74.507 and request that any recovery be made in periodic payments as allowed by §§ 74.501–74.507.

**XIV.**  
**RULE 193.7 NOTICE**

Under Texas Rule of Civil Procedure 193.7, Defendants intend to use all documents produced by Defendants in pretrial proceedings and/or at trial in the above-referenced litigation.

**XV.**  
**JURY DEMAND**

Defendants hereby demand a trial by jury and have tendered the appropriate fee with this Answer.

**XVI.**  
**PRAYER**

For these reasons, Defendants, TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC, GENESIS HEALTHCARE LLC, AND GENESIS HEALTHCARE INC., ask the Court to dismiss this suit or render judgment that Plaintiffs, TERRIE HILL, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF VIRGINIA HILL, AND ON BEHALF OF ALL WRONGFUL DEATH BENEFICIARIES OF THE ESTATE OF VIRGINIA HILL, take nothing, that the Court dismiss this lawsuit and/or render judgment in favor of Defendants; that

Defendants be awarded all costs and expenses incurred; and for any and all other and further relief, both at law and in equity, to which Defendants may be justly entitled.

Respectfully submitted,

**HOBLOIT DARLING RALLS  
HERNANDEZ & HUDLOW LLP**

Bank of America Plaza  
300 Convent Street, Suite 1450  
San Antonio, Texas 78205  
Telephone No. (210) 224-9991  
Facsimile No. (210) 226-1544



By: \_\_\_\_\_

STEPHEN R. DARLING  
State Bar No. 05386500  
Email: [sdarling@hdr-law.com](mailto:sdarling@hdr-law.com)  
JAMES J. LEECH  
State Bar No. 24070131  
Email: [jleech@hdr-law.com](mailto:jleech@hdr-law.com)

**ATTORNEYS FOR DEFENDANTS  
TEXAS HERITAGE OAKS NURSING  
AND REHABILITATION CENTER,  
LLC D/B/A HERITAGE OAKS  
NURSING AND REHABILITATION  
CENTER, SUMMIT CARE LLC,  
SKILLED HEALTHCARE LLC,  
GENESIS HEALTHCARE LLC, AND  
GENESIS HEALTHCARE INC.**



**CERTIFICATE OF SERVICE**

I hereby certify that on the 24<sup>th</sup> day of March, 2016, the foregoing document was electronically filed with the Clerk of the Court, and all known counsel of record as indicated below will receive notification of such filing in accordance with the Texas Rules of Civil Procedure.

Stephen M. Loftin  
Allison F. Fisher  
HICKS THOMAS LLP  
700 Louisiana, Suite 2000  
Houston, Texas 77002

*Electronic Service*



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James J. Leech

**From:** [No-Reply@eFileTexas.gov](mailto:No-Reply@eFileTexas.gov)  
**To:** [Lisa Medlin](#)  
**Subject:** eFileTexas.gov - Notification of Service - 9771190  
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## Notification of Service

Envelope Number: **9771190**

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Filing Details	
<b>Case Number</b>	2016-519,411
<b>Case Style</b>	TERRIE HILL, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF VIRGINIA HILL, AND ON BEHALF OF ALL WRONGFUL DEATH BENEFICIARIES OF THE ESTATE OF VIRGINIA HILL VS. TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC, GENESIS HEALTH CARE LLC, AND GENESIS HEALTHCARE, INC.
<b>Date/Time Submitted</b>	3/24/2016 11:06:59 AM
<b>Filing Type</b>	Answer/Response
<b>Filed By</b>	Lisa Medlin
<b>Service Contacts</b>	<p>Other Service Contacts not associated with a party on the case:</p> <p>Stephen Darling (sdarling@hdr-law.com)</p> <p>James Leech (jleech@hdr-law.com)</p> <p>Lauren Horne (lhorne@hdr-law.com)</p> <p>April Quinones (aquinones@hdr-law.com)</p> <p>Lisa Medlin (lmedlin@hdr-law.com)</p> <p>Gena Amerson (gamerson@hdr-law.com)</p> <p>Allison Fisher (afisher@hicks-thomas.com)</p> <p>Kristin Russell (krussell@hicks-thomas.com)</p>

Stephen Loftin (sloftin@hicks-thomas.com)
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Document Details	
<b>File Stamped Copy</b>	<a href="https://efile.txcourts.gov/ViewServiceDocuments.aspx?ADMIN=0&amp;SID=f6a8a11d-58c3-4562-b78b-e569aceb0ba6&amp;RID=bb0268e3-e8bb-45da-a37f-a821c912ee93">https://efile.txcourts.gov/ViewServiceDocuments.aspx?ADMIN=0&amp;SID=f6a8a11d-58c3-4562-b78b-e569aceb0ba6&amp;RID=bb0268e3-e8bb-45da-a37f-a821c912ee93</a> This link is active for 7 days.

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**Attorney for Plaintiffs Terrie Hill, Individually and as Representative of the Estate of Virginia Hill, Deceased, and on Behalf of All Wrongful Death Beneficiaries of the Estate of Virginia Hill**

Stephen M. Loftin  
Texas Bar No. 12489510  
Email: [sloftin@hicks-thomas.com](mailto:sloftin@hicks-thomas.com)  
Allison F. Fisher  
Texas Bar No. 24068614  
Email: [afisher@hicks-thomas.com](mailto:afisher@hicks-thomas.com)  
HICKS THOMAS LLP  
700 Louisiana, Suite 2000  
Houston, Texas 77002  
Telephone: (713) 547-9100  
Facsimile: (713) 547-9150

CAUSE NO. 2016-519,411

TERRIE HILL, INDIVIDUALLY AND AS	§	IN THE DISTRICT COURT
REPRESENTATIVE OF THE ESTATE	§	
OF VIRGINIA HILL, AND ON BEHALF	§	
OF ALL WRONGFUL DEATH	§	
BENEFICIARIES OF THE ESTATE OF	§	
VIRGINIA HILL,	§	
	§	
Plaintiffs,	§	
	§	
vs.	§	
	§	99 <sup>TH</sup> JUDICIAL DISTRICT
TEXAS HERITAGE OAKS NURSING	§	
AND REHABILITATION CENTER, LLC	§	
D/B/A HERITAGE OAKS NURSING AND	§	
REHABILITATION CENTER, SUMMIT	§	
CARE LLC, SKILLED HEALTHCARE	§	
LLC, GENESIS HEALTHCARE LLC,	§	
AND GENESIS HEALTHCARE INC.,	§	
	§	
Defendants.	§	LUBBOCK COUNTY, TEXAS

---

**DEFENDANTS TEXAS HERITAGE OAKS NURSING AND REHABILITATION  
CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION  
CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC, GENESIS  
HEALTHCARE LLC, AND GENESIS HEALTHCARE INC.'S  
NOTICE OF FILING NOTICE OF REMOVAL**

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TO THE HONORABLE COURT:

PLEASE TAKE NOTICE that on April 6, 2016, Defendants, Texas Heritage Oaks Nursing and Rehabilitation Center, LLC d/b/a Heritage Oaks Nursing and Rehabilitation Center, Summit Care LLC, Skilled Healthcare LLC, Genesis Healthcare LLC and Genesis Healthcare Inc., by and through the undersigned counsel of record, filed in the United States District Court for the Northern District of Texas, Lubbock Division, a Notice of Removal. A true and correct copy of the Notice is attached hereto as Exhibit "A" and incorporated herein verbatim.

PLEASE TAKE FURTHER NOTICE, that pursuant to 28 U.S.C. § 1446, the filing of such Notice in the United States District Court, together with the filing of a copy of the Notice with this

Exhibit C

Court, effects the removal of this action, and this Court may proceed no further unless and until the case is remanded.

Respectfully submitted,

**HOBLIT DARLING RALLS  
HERNANDEZ & HUDLOW LLP**

Bank of America Plaza  
300 Convent Street, Suite 1450  
San Antonio, Texas 78205  
Telephone No. (210) 224-9991  
Facsimile No. (210) 226-1544

By: 

STEPHEN R. DARLING  
State Bar No. 05386500  
Email: [sdarling@hdr-law.com](mailto:sdarling@hdr-law.com)  
JAMES J. LEECH  
State Bar No. 24070131  
Email: [jleech@hdr-law.com](mailto:jleech@hdr-law.com)

**ATTORNEYS FOR DEFENDANTS  
TEXAS HERITAGE OAKS NURSING  
AND REHABILITATION CENTER,  
LLC D/B/A HERITAGE OAKS  
NURSING AND REHABILITATION  
CENTER, SUMMIT CARE LLC,  
SKILLED HEALTHCARE LLC,  
GENESIS HEALTHCARE LLC, AND  
GENESIS HEALTHCARE INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 5<sup>th</sup> day of April, 2016, the foregoing document was electronically filed with the Clerk of the Court, and all known counsel of record as indicated below will receive notification of such filing in accordance with the Texas Rules of Civil Procedure.

Stephen M. Loftin  
Allison F. Fisher  
HICKS THOMAS LLP  
700 Louisiana, Suite 2000  
Houston, Texas 77002

*Electronic Service*

  
James J. Leech





**I. STATUTORY BASIS FOR JURISDICTION**

1. Removal of this action is proper under 28 U.S.C. § 1441. The Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a) as it is a civil action between citizens of different states in which the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

**A. Diversity of Citizenship**

2. Plaintiff Terrie Hill, Individually, and as Representative of the Estate of Virginia Hill, Deceased, is a resident of the State of Texas.

3. Defendant Texas Heritage Oaks Nursing and Rehabilitation Center, LLC d/b/a Heritage Oaks Nursing and Rehabilitation Center, formed under the laws of the State of Delaware, is a single member LLC with Summit Care LLC as its sole member.

4. Defendant Summit Care LLC, formed under the laws of the State of Delaware, is a single member LLC with Summit Care Corporation as its sole member.

5. Summit Care Corporation is a Delaware corporation with its principal place of business in the State of Pennsylvania.

6. Defendant Skill Healthcare, LLC, formed under the laws of the State of Delaware, is a single member LLC with Genesis Healthcare LLC as its sole member.

7. Defendant Genesis Healthcare LLC, formed under the laws of the State of Delaware, is a single member LLC with Genesis Healthcare, Inc. as its sole member.

8. Defendant Genesis Healthcare, Inc. is a Delaware corporation with its principal place of business in the State of Pennsylvania.

9. Defendants are citizens of Delaware, Pennsylvania and California.

10. None of the Defendants are citizens of Texas. Accordingly, complete diversity exists and removal is proper.

**B. Amount in Controversy**

11. In their pleading, Plaintiffs seek monetary relief over \$1,000,000. The damages alleged in Plaintiffs' Original Petition are well in excess of the \$75,000 minimum jurisdictional limits for removal.

**II. COMMENCEMENT OF THE ACTION**

12. Plaintiffs filed their Original Petition on February 12, 2016, seeking monetary damages based on a healthcare liability/nursing home malpractice claim.

13. Plaintiffs' Original Petition and a summons were served on Texas Heritage Oaks Nursing and Rehabilitation Center LLC and Skilled Healthcare LLC on March 7, 2016, thereby commencing the action against Defendants.

14. Pursuant to 28 U.S.C. § 1446(a), true and accurate copies of all process, pleadings, and orders served upon Defendants, and a copy of all papers filed in the Removed Action, are attached hereto as Exhibit "A." No other process, pleadings, or orders have been filed or served in the Removed Action.

**III. VENUE AND TIMELINESS**

15. The District Court of Lubbock County, Texas, 99th Judicial District Court, the Court in which the Removed Action was pending, is located within the jurisdiction of the United States District Court for the Northern District of Texas, Lubbock Division.

16. Defendants were first served with a copy of Plaintiffs' Original Petition on March 7, 2016. Pursuant to 28 U.S.C. § 1446(b)(1) and (2), removal is timely if it is filed within thirty (30) days after receipt of service of Plaintiffs' Original Petition by Defendant. As a result, this notice of removal is timely.

For the reasons set forth above, the Defendants, TEXAS HERITAGE OAKS NURSING AND REHABILITATION CENTER, LLC D/B/A HERITAGE OAKS NURSING AND REHABILITATION CENTER, SUMMIT CARE LLC, SKILLED HEALTHCARE LLC, GENESIS HEALTHCARE LLC, AND GENESIS HEALTHCARE INC., remove to this Court the above-captioned case from the District Court of Lubbock County, Texas, 99th Judicial District Court, Cause No. 2016-519,411.

Respectfully submitted,

**HOBLIT DARLING RALLS  
HERNANDEZ & HUDLOW LLP**

Bank of America Plaza  
300 Convent Street, Suite 1450  
San Antonio, Texas 78205  
Telephone No. (210) 224-9991  
Facsimile No. (210) 226-1544

By: /s/ Stephen R. Darling  
STEPHEN R. DARLING  
State Bar No. 05386500  
Federal ID No. 8743  
Email: [sdarling@hdr-law.com](mailto:sdarling@hdr-law.com)  
THOMAS A. COWEN  
State Bar No. 04927600  
Federal ID No. 10707  
Email: [tcowen@hdr-law.com](mailto:tcowen@hdr-law.com)

**ATTORNEYS FOR DEFENDANTS  
TEXAS HERITAGE OAKS NURSING  
AND REHABILITATION CENTER,  
LLC D/B/A HERITAGE OAKS  
NURSING AND REHABILITATION  
CENTER, SUMMIT CARE LLC,  
SKILLED HEALTHCARE LLC,  
GENESIS HEALTHCARE LLC, AND  
GENESIS HEALTHCARE INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 5<sup>th</sup> day of April, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to each counsel of record listed below. To the extent any such counsel is not registered for such electronic delivery, the foregoing document will be served in accordance with the Federal Rules of Civil Procedure.

Stephen M. Loftin  
Allison F. Fisher  
HICKS THOMAS LLP  
700 Louisiana, Suite 2000  
Houston, Texas 77002

By: /s/ Stephen R. Darling  
Stephen R. Darling